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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,039	11/29/2001	Banavara L. Mylari	PC11830ARTB.	3506

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05/09/2002

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EXAMINER

WEDDINGTON, KEVIN E

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/997,039

Applicant(s)

Mylari

Examiner
Kevin E. Weddington

Art Unit
1614



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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Claims 1-21 are presented for examination.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman et al. (AB) in view of Mylari et al. (F) .

Kaufman et al. teach GABA agonists that are used to treat autoimmune diseases. One such autoimmune disease is insulin dependent diabetes mellitus. Note column 5, lines 55-63 and column 6, lines 1 and 2 disclose the GABA agonists used in the reference. Note one of the GABA agonists is muscimol, one of the applicant's preferred GABA agonist.

The instant invention differs from the cited reference in that the cited reference does not teach the addition of an aldose reductase inhibitor (ARI) with the GABA agonist to form a pharmaceutical composition. However, the secondary reference, Mylari et al., teaches pyrido[2,3-D]pyridazinones as aldose reductase inhibitors are used to treat and prevent diabetic complications associated with diabetes mellitus (See the abstract). Clearly, one skilled in the art would have assume that the combination of two well-

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known anti-diabetic compounds into a single composition for the same purpose would give an additive effect in the absence of evidence to the contrary.

The instant invention differs from the cited references in that the cited references do not teach the applicant's preferred GABA agonists as disclose in the various claims of the present application. However, one skilled in the art would have assume that all GABA agonists would possess the same anti-diabetic activity as muscimol. Thus the substitution of one GABA agonist for another GABA agonist would achieve the same anti-diabetic results in the absence of evidence to the contrary.

Claims 1-21 are not allowed

The remaining references listed on the enclosed PTO-892 are cited to show the state of art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner K. Weddington whose telephone number is (703) 308-1235.


Kevin E. Weddington
Primary Examiner
Art Unit 1614

K. Weddington

April 30, 2002